

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/B2004/001537

International filing date (day/month/year)
13.05.2004

Priority date (day/month/year)
14.05.2003

International Patent Classification (IPC) or both national classification and IPC
B65D5/66, B65D5/02

Applicant
DREAMER S.R.L.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1b(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office - P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk - Pays Bas
Tel. +31 70 340 - 2040 Tx: 31 651 epo nl
Fax: +31 70 340 - 3016

Authorized Officer

Bridault, A

Telephone No. +31 70 340-3224



**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IB2004/001537

Box No. II Priority

1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	31, 41, 53, 55-62, 65, 69, 74, 78-80, 86-95
	No: Claims	1-30, 32-40, 42-52, 54, 63, 64, 66-68, 70-73, 75-77, 81-85
Inventive step (IS)	Yes: Claims	53, 56-62, 64, 65, 69, 74, 78-80, 94, 95
	No: Claims	1-52, 54, 55, 63, 66-68, 70-73, 75-77, 81-93
Industrial applicability (IA)	Yes: Claims	1-95
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item V.

- 1 The following documents are referred to in this communication:

D1 : GB 2 371 289 A
D2 : BE 410 524 A
D3 : US 3 265 282 A
D4 : US 6 363 696 B1
D5 : GB 2 079 252
D6 : US 4 913 292 A

2 INDEPENDENT CLAIM 1

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 discloses (the references in parenthesis applying to this document) a container for holding a product, the container consisting of a retaining body and comprising side product retaining means (1-6) and one outlet opening through which the product comes out, the container body being a tubular container body with a polygonal base, and there being container closing means consisting of a lid (15) for closing the product outlet opening, the lid extending from the container body and being connected to it.

The container of D1 has therefore all the technical features of the subject-matter of claim 1.

- 2.2 Furthermore, such a container is also disclosed in D2, D3, D4, D5 and D6.

3 INDEPENDENT CLAIM 83

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 83 is not new in the sense of Article 33(2) PCT.

Documents D3, D4 and D6 all disclose containers according to claim 1 (see 2.2 above). Moreover, they mention that said containers are used for containing edible

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/IB2004/001537

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

products in pieces (resp. cereal, chewing gum and dog/cat food). Therefore, they disclose a pack according to claim 83.

4 INDEPENDENT CLAIM 84

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 84 is not new in the sense of Article 33(2) PCT for reasons similar to the ones explained in connection with claim 83.

5 INDEPENDENT CLAIM 86

The present application does not meet the criteria of Article 33(1) PCT, because the subject matter of claim 86 does not involve an inventive step in the sense of Article 33(3)PCT.

Document D1, which is considered to represent the most relevant state of the art to the subject matter of claim 86, discloses a blank from which the subject-matter of claim 86 differs in that the side panels extend from the side edges of the lid upper panel, on the side opposite the one on which the upper panel is connected to the panel forming the outer wall of the container body. In D1, they extend from the side edges of a panel connecting the upper panel to the back panel of the container. However, having them directly connected to the upper panel is a well-known practice, see e.g. D4. The blank of claim 86 is therefore one of several equivalent possibilities from which the skilled person would choose, in order to make the lid, without the exercise of any inventive skill.

6 DEPENDENT CLAIMS 2-52, 54, 55, 63, 64, 66-68, 70-73, 75-77, 81, 82, 85, 87-93

Dependent claims 2-52, 54, 55, 63, 64, 66-68, 70-73, 75-77, 81, 82, 85, 87-93 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

7 DEPENDENT CLAIMS 53, 56-62, 65, 69, 74, 78-80, 94, 95

The combination of the features of dependent claims 53, 56-62, 65, 69, 74, 78-80, 94, 95 are neither known from, nor rendered obvious by, the available prior art. In particular, the prior art does not disclose any transversal stiffening wall in a container according to claim 1.

Re Item VIII.

- 1 Claims 14, 24, 26, 44, 49, 63, 67, 80, 81 (resp. 89 to 95) are written as dependent claims, but include also the possibility of comprising only the features of the preamble of claim 1 (resp. 86), in which case they are in fact independent. There results a lack of clarity of said claims, in that their scope cannot be unambiguously determined.

For the purpose of this opinion, they were considered as dependent on claim 1 (resp. 86), or one of their dependent claims.

- 2 Claim 85 includes all the technical features of claim 84 (the features listed after "in particular" are optional and therefore do not limit the scope of the claim), and should therefore be drafted as dependent on claim 84.
- 3 The statement in the last paragraph of the description implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them.